

REMARKS

The present Amendment is in response to the Office Action dated August 6, 2007. Claims 1-13 have been amended. Claims 14-25 have been added. Therefore, claims 1-25 remain pending in the present application. Applicant's remarks relating to the pending claims and the outstanding Action are set forth below.

In the Action, the Examiner objected to claims 4-7 and 11-13 under 37 C.F.R. § 1.75(c) as being in improper independent form because a multiple dependent claim cannot depend from another multiple dependent claim. The Examiner did not treat these claims further on the merits. Claims 4-7 and 11-13 are herein amended as follows: claims 4-7 each depend solely from claim 1; claim 11 includes a reference solely to claim 1; and claims 12 and 13 each depend solely from claim 11. Applicant submits that these amendments properly remove any objection to form under 37 C.F.R. § 1.75(c).

Further in the Action, the Examiner rejected claims 1-3 and 8-10 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, claim 1 was rejected for using the term "the hoist arrangement" with insufficient antecedent basis for such a limitation, and claim 2 was rejected as the Examiner believes that it claims both an apparatus and the method steps of using the apparatus. The term "hoisting arrangement" as previously recited in claim 1 is herein amended to read "hoisting device." A similar amendment is made to claim 4. Claim 2 is herein amended to recite limitations directed solely to an apparatus. Applicant submits that these amendments properly remove any rejection under 35 U.S.C. § 112 as to indefiniteness.

Still further in the Action, the Examiner rejected claims 1-3 and 8-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,660,319 to Dorland ("Dorland"). It is the Examiner's position in the Action that Dorland teaches each and every limitation in originally presented claims 1-3 and 8-10 of the present application.

Dorland teaches a loading device for cargo vessels in which a loading device is positioned within or on the hull of a vessel. Dorland recites in its specification that the "hatch covering," which the Examiner believes to be the equivalent of the "upper part" of the present invention, is "[o]ne of the important, though not indispensable, features of the ship. . . ." The Examiner thusly considers the vessel in Dorland to be part of a "container." Alternatively, in the present invention, a "container" is used in conjunction with a vehicle. The "under part" and "upper part" of the present invention form a closeable container which protects the contents of the container while the hoisting device is not in use. Therefore, by Dorland's own admission, the "hatch covering" is not an integral feature of Dorland's apparatus, whereas the "under part" and "upper part" of the present invention are elements that are fundamental to its operation.

As the Examiner specified that any language in the preamble of claim 1 would not be given patentable weight, claim 1 has been amended to affirmatively claim the elements of the container, namely the "under part", the "upper part", and at least 2 sides, with the container also having at least one open position and one closed position. These amendments distinguish the present invention over Dorland.

The Examiner has further noted that the language in claim 1 preceding the phrase "characterized in that" is merely part of the preamble and is not given patentable weight. The Examiner cites Dorland as teaching the general structure of a

hoisting device, one which is utilized on a cargo ship. Applicant has amended the body of claim 1 to include the term "vehicle" to further distinguish the present invention over Dorland. In other words, that claim now requires a vehicle and a container mounted to that vehicle, as opposed to that which is taught in Dorland. Based on this and the above-mentioned amendments, Applicants respectfully submit that independent claim 1, as amended, is allowable over the prior art cited by the Examiner. Given that claims 2-13 properly depend from independent claim 1, such claims also necessarily overcome the prior art. A dependent claim is necessarily narrower than an independent claim from which it properly depends. Therefore, Applicants respectfully request allowance of each and every one of claims 1-13.

Applicants have added claims 14-25 to the present application with the objections and rejections of the previous Action in mind so as to avoid any unnecessary delay in prosecution. The newly added claims are fully supported in both the originally filed figures, as well as in the originally filed disclosure of the present application. Therefore, Applicants respectfully request allowance of each and every one of newly added claims 14-25.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's undersigned agent at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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